

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

ASSEFA GABREL EGZIABHER, JR.

PLAINTIFF

v.

Civil No. 5:19-cv-05214

DETECTIVE MCILROY, Fayetteville Police  
Department (FPD); and PATROLMAN HARRIS, FPD

DEFENDANTS

**OPINION AND ORDER**

This is a civil rights action filed by the Plaintiff pursuant to 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*.

On July 21, 2020, Defendants filed a Motion to Stay and for Sanctions (ECF No. 30). The Court stayed the deadlines set forth in the Initial Scheduling Order (ECF No. 25). Defendants sought sanctions pursuant to Rule 37(d) of the Federal Rules of Civil Procedure based on Plaintiff's failure to appear for his deposition. As a result of Plaintiff's non-appearance, Defendants' counsel incurred costs for the court reporter's appearance fee and transcript in the amount of \$203.50. Plaintiff did not respond to the motion for sanctions.

On August 27, 2020, Defendants' Motion for Sanctions was granted. (ECF No. 32). Plaintiff was directed to pay the amount of \$203.50 to Defendants' counsel by no later than September 30, 2020. *Id.* Plaintiff was advised that failure to pay the sanctions would result in the dismissal of this case. If Plaintiff failed to pay the sanctions, Defendants were directed to so notify the Court. *Id.*

On October 8, 2020, Defendants filed a notice (ECF No. 33) stating that no payment had

been made by the Plaintiff. This case is **DISMISSED WITHOUT PREJUDICE**. Upon payment in full of the sanctions and proof that he has allowed his deposition to be taken, Plaintiff may file a motion to reopen this case.

IT IS SO ORDERED this 9th day of October 2020.

*/s/ P. K. Holmes, III*

P. K. HOLMES, III  
U.S. DISTRICT JUDGE